THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26959 of 2006

Dated:02.04.2007

Between:

The District Collector.

… Petitioner

AND

The Commissioner, Survey Settlements and Land Records, and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26959 of 2006

ORDER:

The District Collector, Chittoor, is the petitioner herein. This Writ Petition is filed challenging the order of the Commissioner, Survey Settlements and Land Records, first respondent, dated 01.02.1995 in Case No.P3/2959/82, whereunder the first respondent confirmed the orders of the second respondent, who in turn confirmed the orders of the Settlement Officer-cum-Joint Collector (SO), third respondent herein. Be it noted, the SO by order dated 05.06.1970 issued a ryotwari patta under Section 11(a) of Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short 'the Act'), in favour of the fourth respondent.

The brief fact of the matter is as follows. Kavetipuram, an Inam Village, originally belonged to one A.Krishna Sastrulu, who mortgaged it in favour of his father-in-law, P.M.Narasiah. The property was purchased by K.L.Narasimhachary in the Court auction sale. The same was in turn purchased by Narasiah in 1936, who transferred his rights in favour of Uttaradi Mutt in 1937. The said Village was taken over by the Government in 1952 under the provisions of the Act, and in 1953, Uttaradi Mutt as well as Krishna Sastrulu filed claim petitions under Section 15 of the Act. These were rejected by the Assistant Settlement Officer (ASO), Chittoor, on 15.12.1957, holding that the subject lands were not the private lands. This was the subject matter in the appeal before the Estates Abolition Tribunal, Chittoor, who remanded the matter for fresh enquiry. The ASO again rejected the claims by order, dated

14.09.1964, observing that the subject lands were ryoti in nature. The claimants were given liberty to apply for grant of patta under Section 11(a) of the Act. Krishna Sastrulu then filed claim petition under Section 11(a) of the Act on 17.09.1966 before the SO. He informed that enquiry will be initiated in respect of the lands in Survey Nos.10/5, 13/1, 13/2, 14/16, 24/3, 39/2, 40/6, 40/8D, 53, 54/2 and 56/1 only, as the rest of the lands are patta lands of other ryots. Ananta Narasimham, son of Krishna Sastrulu, who expired in November 1966, filed application to implead him and others as legal heirs. M/s.A.Rama Krishna Reddy and Sreeramulu filed objections/claim petitions contending that a part of the land was purchased by them. The fourth respondent confirmed his claims to Survey Nos.13/1, 13/2, 14-6 and 53. The SO impleaded the legal representatives, and by order, dated 05.06.1970, granted patta for the lands in question in favour of the fourth respondent. Aggrieved by the said orders, Rama Krishna Reddy filed a revision before the Director of Settlements (DOS) and also further revision before the first respondent herein, which were dismissed as time barred. The Collector, Chittoor, also filed a revision before the DOS against the orders of the SO, dated 05.06.1970, which was rejected on 25.07.1975 as time barred, and the same was challenged by way of further revision before the first respondent herein, who remanded the case to the DOS for disposal on merits. The DOS, after due consideration, confirmed the orders of the SO granting patta, against which, a revision was filed before the first respondent by the petitioner raising various grounds. The first respondent, by order, dated 01.02.1995, dismissed the revision filed by the petitioner confirming the orders of the SO and the DOS, which is impugned in the present Writ Petition.

The learned Assistant Government Pleader for Revenue (General-A) vehemently contends that the application filed by the father of the fourth respondent under Section 15 of the Act was rejected by the ASO way back in 1957, which would only show that the predecessor of the fourth respondent is not the holder of the estate. Therefore, again an application under Section 11(a) of the Act for ryotwari patta would not lie. Such an application is barred by *res judicata*. Insofar as the delay in filing the Writ Petition is concerned, he submits that the order passed by the first respondent was submitted to the Government on 30.09.1997 and the Government accorded permission to file the Writ Petition on 29.06.2005.

In this case ryotwari patta was granted by the third respondent on

05.06.1970. Aggrieved by the same, a revision was filed before the DOS in 1976 with a delay of six years. Initially, the revision was dismissed as time barred, but however, the Board of Revenue under Section 7(d) of the Act remanded the matter to the DOS again. The petitioner herein did not produce any document for the period prior to 01.07.1945. Therefore, the DOS came to the conclusion that the fourth respondent and his predecessor, are continuously in possession of the land by paying the rents before abolition, and therefore, entitled for ryotwari patta. The same view was also affirmed by the first respondent after considering the entire evidence. Therefore, there cannot be any criticism of the orders passed by the SO, the first revisional authority and the second revisional authority. The submission of the learned Assistant Government Pleader that the earlier order passed by the ASO under Section 15 of the Act precludes an application under Section 11(a) of the Act is misconceived. As seen from the order of the first respondent, while rejecting the application under Section 15 of the Act, the ASO gave liberty to the predecessor of the fourth respondent to move application under Section 11(a) of the Act for ryotwari patta. Only then, the application was filed, into which, an enquiry was conducted in respect of certain survey numbers, which were found to be ryoti lands. The submission, therefore, cannot be countenanced.

In addition to the above, the Writ Petition is also liable to be dismissed for delay and laches. It is rather extraordinary that the District Collector has audacity to file the Writ Petition after a delay of twelve years after the dismissal of the revision by the first respondent. The reasons for delay disclosed in paragraph 7 of the affidavit accompanying the Writ Petition are only to be noticed for the purpose of rejection. Even the order of the first respondent was submitted to the Government after delay of more than two years without enclosing the copy of the order passed by the DOS. It appears, all the revenue officials were not at all vigilant in prosecuting the case. Indeed, as observed by the DOS, the Tahasildar did not even produce necessary evidence when the enquiry was conducted by him.

The Writ Petition is wholly misconceived, and is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

02.04.2007
vs